

Remarks

In the outstanding Official Action, the Examiner:

(1) indicated that color photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) is granted permitting their use as acceptable drawings;

(2) rejected claims 1-31 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;

(3) rejected claims 1-6, 8-11, 13-15, 21, 22 and 25-31 under 35 USC 103(a) as being unpatentable over Strecker in view of Tanner et al.;

(4) rejected claims 16, 17 and 18 under 35 USC 103(a) as being unpatentable over Strecker in view of Tanner et al. as applied to claims 1-6, 8-11, 13-15, 21, 22 and 25-31 above, and further in view of Frantzen et al.

In response to Item 1 above, Applicant acknowledges that color drawings are acceptable for examination purposes. Applicant will submit formal drawings prior to issuance of the above-identified patent application.

In response to Item 2 above, Applicant has now amended claims 1, 15 and 21 so as to more clearly define the present invention. Specifically, claims 1 and 21 have now been amended to replace "said first end of said delivery tube" with -- said third end of said delivery tube -- so as to provide a more proper antecedent basis. Claim 15 has now been amended to replace "Dacron/PTFE material" with -- a synthetic polyester fiber of at least one of a group consisting of DACRON and polytetrafluoroethylene (TEFLON) -- so as to more clearly define the present invention. Accordingly, claims 1, 15 and 21 are believed to be in condition for allowance, and allowance thereof is respectfully requested.

Claims 2-14, 16-20 and 22-31, which depend either directly or ultimately from one of independent claims 1 and 21, are believed to be in condition for allowance at least for the above identified reasons. Accordingly, allowance of claims 2-14, 16-20 and 22-31 is respectfully requested.

In response to Items 3 and 4 above, Applicant has now amended claims 1 and 21 so as to more clearly define the present invention with respect to the prior art of record. Amended claim 1 of the present invention comprises apparatus for inserting a surgical fastener through a plurality of portions of material

from within an endovascular pathway, the apparatus comprising a delivery tube deployment tube directly engaging the delivery tube.

Applicant believes that Strecker discloses an implantation device having a hose-like graft 87 between a sleeve 88 and a hollow body 89 of catheter 90. Applicant further believes that receiving sections 93, 93', and 93" extend from hollow body 89 and that graft 87 is disposed between receiving sections 93, 93' and 93" and hollow body 89, respectively. (See column 10, lines 11-41 and Fig. 12). Applicant believes that Strecker teaches away from the present invention of claim 1 comprising a delivery tube deployment tube directly engaging the delivery tube. Accordingly, claim 1 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

Claims 2-20, which depend either directly or ultimately from independent claim 1, are believed to be in condition for allowance at least for the above identified reasons. Allowance of claims 2-20 is respectfully requested.

Amended claim 21 of the present invention comprises a method for inserting a surgical fastener through a plurality of portions of material from within an endovascular pathway, the method comprising providing apparatus comprising a delivery tube

deployment tube directly engaging the delivery tube. Applicant believes that amended claim 21 is in condition for at least the above-identified reasons. Accordingly, allowance of amended claim 21 is respectfully requested.

Claims 22-31, which depend either directly or ultimately from independent claim 21, are believed to be in condition for allowance for at least the above-identified reasons. Accordingly, allowance of claims 22-31 is respectfully requested.

New claim 32 comprises apparatus for inserting a surgical fastener through a plurality of portions of material from within an endovascular pathway, the apparatus comprising a delivery tube, delivery tube deployment means, an endovascular graft being in surrounding configuration to the delivery tube deployment means, and an outer endovascular graft delivery sheath in surrounding configuration to the endovascular graft. Applicant believes that Stecker does not disclose apparatus for inserting a surgical fastener through a plurality of portions of material from within an endovascular pathway, the apparatus comprising a delivery tube, delivery tube deployment means, an endovascular graft being in surrounding configuration to the delivery tube deployment means, and an outer endovascular graft delivery sheath in surrounding configuration to the endovascular graft.

Accordingly, new claim 32 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

New claim 33 comprises a method for inserting a surgical fastener through a plurality of portions of material from within an endovascular pathway, the method comprising providing an apparatus comprising a delivery tube, delivery tube deployment means, endovascular graft being in surrounding configuration to the delivery tube deployment means, and an outer graft delivery sheath in surrounding configuration to the delivery tube deployment means, and an outer endovascular graft delivery sheath in surrounding configuration to the endovascular graft.

Applicant believes that Strecker does not disclose a method for inserting a surgical fastener through a plurality of portions of material from within an endovascular pathway, the method comprising providing apparatus comprising a delivery tube, delivery tube deployment means, an endovascular graft being in surrounding configuration to the delivery tube deployment means, and an outer endovascular graft delivery sheath in surrounding configuration to the endovascular graft. Accordingly, new claim 33 is believed to be in condition for allowance, and allowance thereof is respectfully requested.

New claim 34 comprises apparatus for inserting a surgical fastener through a plurality of portions of material from within an endovascular pathway, the apparatus comprising delivery tube deployment means comprising an inner sheath. Applicant believes that Strecker does not disclose the apparatus of the present invention comprising an inner sheath. Accordingly, allowance of claim 34 is respectfully requested.

New claim 35 of the present invention comprises a method for inserting a surgical fastener through a plurality of portions of material from within an endovascular pathway, the method comprising providing apparatus comprising delivery tube deployment means comprising an inner sheath. Applicant believes that Strecker does not disclose the method of the present invention comprising providing apparatus comprising an inner sheath. Accordingly, allowance of new claim 35 is respectfully requested.

In the event that any additional fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.

Respectfully submitted,

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